IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/759,218
Applicant	:	Durward I. Faries, Jr. et al.
Filed	:	January 20, 2004
TC/A.U.	:	2859
Examiner	:	Jagan, M.
Confirmation No.	:	6438
Docket No.	:	1322.0057CNT
Customer No.	:	27896
Title	:	Method and Apparatus for Monitoring Temperature of Intravenously Delivered Fluid and Other Medical Items

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief mailed January 23, 2008, a revised "Summary of the Claimed Subject Matter" section is provided herewith. The revised "Summary of the Claimed Subject Matter" section provides a reference to the specification and drawings (including reference characters) for the subject matter of the independent claims. It is respectfully submitted that this amended version of the "Summary of the Claimed Subject Matter" meets the requirements of 37 CFR 41.37(c)(1)(v).

The Examiner is now requested to consider the Appeal Brief filed March 19, 2007, including the revised "Summary of the Claimed Subject Matter" section included herewith.

Respectfully submitted,

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Electronically Filed On: February 21, 2008

5. Summary of the Claimed Subject Matter (Revised)

The claims on appeal are directed to medical devices and corresponding methods for visually indicating a temperature of a medical item placed within the device.

In particular, independent claim 47 recites a medical device for visually indicating a temperature of a medical item placed therein (see, e.g., page 4, lines 20-24, page 17, line 10, to page 19, line 6, and temperature stand 53 shown in Figs. 9, 10 and 14-16), where the device comprises a base and at least first and second panels attached to the base (see, e.g., page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and base 54, front panel 55 and item support 56 shown in Figs. 9 and 10), a receptacle defined between the first and second panels for receiving the medical item within the receptacle (see, e.g., page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and receiving area 51 shown in Figs. 9 and 10), where the medical item has a particular temperature range for utilization (see, e.g., page 7, lines 1-4, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and solution bag 3 shown in Figs. 9, 10 and 12-14), and a temperature sensor assembly to directly measure medical item temperature and visually indicate the measured medical item temperature (see, e.g., page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 21, and temperature sensing device 8 shown in Figs. 9, 10 and 12-14). Claim 47 further recites that the medical device is configured such that any thermal treatment of the medical item received within the receptacle occurs only via heat transfer between the medical item and an external environment surrounding the medical device (see, e.g., page 4, lines 20-24, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and the solution bag 3 located within receiving area 51 of temperature stand 53 as shown in Figs. 9, 10 and 12-14).

Similarly, independent claim 59 recites a method of visually indicating a temperature of a medical item placed in a medical device (see, e.g., page 4, lines 20-24, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and solution bag 3 and temperature stand 53 shown in Figs. 9, 10 and 14-16), where the medical device includes a base and at least first and second panels attached to the base and a receptacle defined between the first and second panels (see, e.g., page 17, line 10, to page 19, line 6, and base 54, front panel 55, item support 56 and receiving area 51 as shown in Figs. 9 and 10), the method comprising the steps of: (a) receiving

the medical item within the receptacle defined between the first and second panels of the device, where the medical item has a particular temperature range for utilization (see, e.g., page 7, lines 1-4, page 17, line 10, to page 19, line 6, and solution bag 3 placed within receiving area 51 of temperature stand 53 as shown in Figs. 9 and 10); and (b) directly measuring medical item temperature and providing a visual indication of the measured medical item temperature via a temperature sensor assembly (see, e.g., page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 21, and temperature sensing device 8 directly measuring the temperature of solution bag 3 disposed within temperature stand 53 as shown Figs. 10 and 14-16). Claim 59 further recites that the medical device is configured such that any thermal treatment of the medical item received within the receptacle occurs only via heat transfer between the medical item and an external environment surrounding the medical device (see, e.g., page 4, lines 20-24, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and the solution bag 3 located within receiving area 51 of temperature stand 53 as shown in Figs. 9, 10 and 12-14).

Independent claim 71 recites a medical device for visually indicating a temperature of a medical item placed therein (see, e.g., page 4, lines 20-24, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and temperature stand 53 shown in Figs. 9, 10 and 14-16), where the medical device comprises a base and at least first and second panels attached to the base (see, e.g., page 17, line 10, to page 19, line 6, and base 54, front panel 55 and item support 56 shown in Figs. 9 and 10), a receptacle defined between the first and second panels for receiving the medical item within the receptacle (see, e.g., page 17, line 10, to page 19, line 6, and receiving area 51 shown in Figs. 9 and 10), where the medical item has a particular temperature range for utilization (see, e.g., page 7, lines 1-4, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and solution bag 3 shown in Figs. 9, 10 and 12-14), and a temperature sensor assembly to directly measure medical item temperature and visually indicate the measured medical item temperature (see, e.g., page 17, line 10, to page 19, line 6, and page 21, line 13, to page 23, line 21, and temperature sensing device 8 shown in Figs. 9 and 10), where the temperature sensor assembly is affixed to one of the first panel, the second panel and the base (see, e.g., page 17, line 10, to page 19, line 6, and page 21, line 13, to page 23, line 21, and sensing device 8 being affixed to front panel 55 as shown in Figs. 9, 10 and 14-16).

Similarly, independent claim 72 recites a method of visually indicating a temperature of a medical item placed in a medical device (see, e.g., page 4, lines 20-24, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 11, and solution bag 3 and temperature stand 53 shown in Figs. 9, 10 and 14-16), where the medical device includes a base and at least first and second panels attached to the base and a receptacle defined between the first and second panels (see, e.g., page 17, line 10, to page 19, line 6, and base 54, front panel 55, item support 56 and receiving area 51 as shown in Figs. 9 and 10). The method of claim 72 comprises: (a) receiving the medical item within the receptacle defined between the first and second panels of the device, where the medical item has a particular temperature range for utilization (see, e.g., page 7, lines 1-4, page 17, line 10, to page 19, line 6, and solution bag 3 being placed within receiving area 51 of temperature stand 53 as shown in Figs. 9 and 10); and (b) directly measuring a medical item temperature and providing a visual indication of the measured medical item temperature via a temperature sensor assembly (see, e.g., page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 21, and temperature sensing device 8 directly measuring the temperature of solution bag 3 disposed within temperature stand 53 as shown Figs. 10 and 14-16), where the temperature sensor assembly is affixed to one of the first panel, the second panel and the base (see, e.g., page 17, line 10, to page 19, line 6, and page 21, line 13, to page 23, line 21, and sensing device 8 being affixed to front panel 55 as shown in Figs. 9, 10 and 14-16).

The features of the remaining dependent claims 48-58 and 60-70 can also be found throughout the specification (see, e.g., page 7, lines 13-27, page 17, line 10, to page 19, line 6, page 21, line 13, to page 23, line 21, page 24, lines 9-26, page 26, line 20, to page 27, line 6, and Figs. 9, 10 and 14-16).